

April, 2019 Q&A with IRSC pre-law students

1. To be a lawyer or a judge, what are the most important qualities to possess? What experiences have you had in your life that have strengthened those qualities in you?

“**Lawyering**” is, first and foremost, a **people business**. The lawyer serves his client, deals with adverse counsel, presents the case to convince a jury of people or a judge of the desired result. As such, to be a successful lawyers one must be, or learn to be, a “**people person**”.

On the other hand, **judges** interpret the law and present the “face” of the law to those before him -the lawyers, the clients, the gallery. The most important quality for a judge to possess is, **first** and foremost, to know that their job is to **interpret, not make, law, regardless of their personal prejudices or beliefs** and to obviously to **know the law**. Judges are powerful - they can take away a person’s life, liberty or money. So, it is important that a judge **wield that power wisely, be humble and merciful or tough as warranted, not have or get what’s called “black robe disease” - not be arrogant, conceited, have an exaggerated sense of self-importance** - so those before him trust that he will be fair and apply the law.

Experiences that have strengthened those qualities in me: My first career and training was in engineering. Engineers are technocrats who deal with things not people and are good at creating objects quickly - not great qualities for a lawyer! So I was working on experiences counter to those needed! General life experiences requiring the ability to deal with people helped: marriage, children, societal dealings in general with people, finding and emulating a life partner who was a successful business owner with excellent people skills. But what made me want to become a lawyer and to develop the required people skills was my engineering inquisitiveness: I was a plaintiff in a legal action, could not understand the slow movement of the proceedings or the rules or the posturing of the lawyers. Afterward, I wanted to know what happened, the how and why of the rules and statutes of law that were applied, and how to become a good lawyer. I learned people skills by observing and emulating others with those skills.

2. **How do you think one should best prepare to be a law student?**

Learn the **art of small talk** - in a gathering, don’t talk about yourself, ask people about themselves, that’s what people like to talk about. That makes them feel you think they are important, that you care about them. Observe how successful business owners deal with people - especially those who are difficult - because you will have many of those. **Develop good listening skills**. If you are fearful of speaking to an audience, join Toastmasters or another group to **develop speaking skills**. At one time, I would get nauseous if I had to speak to an audience!

3. How would you best describe maritime law and how is it important today?

The simplistic answer is maritime law is “anything having to do with boats and the water”. **That answers the question why it is important today.**

4. What is admiralty law and why is it different from other law?

Maritime law is created by federal statutes, by federal judges in maritime cases, or through long-standing maritime practice that originated in ancient times. Some maritime matters can be adjudicated only in federal maritime courts, while others can be adjudicated in either federal or state courts. Regardless of the court, when there exists entrenched federal maritime law and statutes, that law, not state law, applies.

Maritime cases can involve maritime contracts (such as for repairs or dockage), or maritime torts (such as damages for personal injury or property occurring on navigable water).

MARITIME TORT JURISDICTION exists only when 5 conditions are satisfied:

There must be a MARITIME TORT → A tort

1. RELATING TO A VESSEL
2. Which occurred while the vessel is IN NAVIGATION
3. ON NAVIGABLE WATERS
4. DURING COURSE OF TRADITIONAL MARITIME ACTIVITY
5. WITH POTENTIAL FOR AFFECTING MARITIME COMMERCE

MARITIME CONTRACTS JURISDICTION exists when there is a Contract which “**relates to the navigation, business, or commerce of the sea.**” *De Lovio v. Boit*, 7 F.Cas. 418, 444 (C.C. D. Mass. 1815), superseded on other grounds 409 U.S. 249. In order for a contract to fall within the federal admiralty jurisdiction, it must be **wholly maritime in nature**, or its non-maritime elements must be either insignificant or -separable without prejudice to either party”. See *E.S. Binnings, Inc. v. M/V Saudi Riyadh*, 815 F.2d 660, 665 (11th Cir. 1987), superseded on other grounds 500 U.S. 603; *Wright & Miller et al.*, 14A Federal Practice and Procedure §3675 (4th ed. 2016) (collecting cases). Moreover, **to come within the federal court’s admiralty and maritime jurisdiction**, the elements of a contract must “**pertain directly to and be necessary for commerce or navigation upon navigable waters.**” *Nehring v. Steamship M/V Point Vail*, 901 F.2d 1044, 1048 (11th Cir. 1990).

In evaluating whether the subject matter of a contract is necessary to the operation, navigation, or management of a ship, a court will apply the test of reasonableness, not absolute necessity. *Ambassador Factors v. Rhein-, Maas-, Und See- Schifffahrtskontor GMBH (Vormals Sanara Reedereikontor GMBH)*, 105 F.3d 1397 (11th Cir. 1997).

5. What qualities do you consider most important for a judge?

Temperament (humble, not self-important, not likely to acquire black robe disease) and **Knowledge of the law**